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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8 MICHAEL THRASHER,

9                   Plaintiff,

10                  v.

11 KING COUNTY PUBLIC HEALTH, et al.,

12                   Defendants.

13                   No. C07-0529MJP-MAT

14                   ORDER ADOPTING REPORT AND  
15                   RECOMMENDATION AND  
16                   DISMISSING COMPLAINT

17                  This comes before the Court upon the Magistrate Judge's Report and Recommendation  
18 ("R & R"), which recommended that the Court dismiss Plaintiff Michael Thrasher's complaint for  
19 failure to state a claim upon which relief may be granted. Upon review of the record (Dk. Nos. 4-8)  
20 and the documents submitted by the parties, the Court ADOPTS the R & R and DISMISSES  
21 Thrasher's complaint. Thrasher has failed to explain how any individual defendants violated his  
22 constitutional rights, and thus has failed to state a claim for relief under § 1983.

23                   **Background**

24                  On September 14, 2006, Thrasher was allegedly beaten by another prisoner, fracturing his  
25 nose. At such time, he was already using crutches and a leg brace as a result of a motorcycle accident  
that he had suffered earlier. Thrasher alleges that the prison staff waited twelve hours before sending

him to a hospital to treat his nose injury. He also alleges that the medical staff made him walk down stairs to reach the waiting ambulance, which caused him pain due to his pre-existing leg injury.

Later, on November 3, 2006, Thrasher alleges that the prison staff denied him use of his crutches for some undisclosed period of time. He also alleges generally that the prison staff denied him therapy and pain medication for his leg injury, although he provides no dates or details.

On April 17, 2007, Thrasher filed suit under 42 U.S.C. § 1983, arguing that the above-mentioned acts violated his constitutional rights. He named as defendants King County Public Health and several individual defendants under its employ. The Magistrate Judge declined to serve this complaint, but granted Thrasher leave to amend.

Thrasher filed his amended complaint on May 4, 2007. The amended complaint dropped King County Public Health as a defendant, instead naming only individual defendants Keith Tang, Sanders, M. Burns, T. Raines, and Rise Williams. It sought compensatory damages of \$20 million and punitive damages of \$100 million.

The Magistrate Judge recommended that the complaint be dismissed for failure to state a claim. Specifically, the Magistrate Judge reasoned that:

Although the amended complaint states in a conclusory fashion that prison officials acted with deliberate indifference to his serious medical needs, plaintiff does not allege facts that support this assertion. He states vaguely that the prison medical staff “continuely [sic] refuses to provide adequate care” but does not provide names, dates, or details.

## Discussion

To state a claim against an individual defendant under § 1983, a plaintiff must show that “the defendant *personally* participated in a deprivation of the plaintiff’s rights.” Arnold v. International Business Machines Corp., 637 F.2d 1350, 1355 (9<sup>th</sup> Cir. 1981) (emphasis added). This rule of individual liability applies fully to suits by prisoners alleging deliberate indifference to their medical needs. ‘The ‘deliberate indifference’ standard requires proving some degree of ‘individual culpability’

1 . . . we must take a very individualized approach which accounts for the duties, discretion, and means  
2 of each defendant.” Leer v. Murphy, 844 F.2d 628, 633-34 (9<sup>th</sup> Cir. 1988).

3 Under this standard, Thrasher has failed to state a claim against any defendant. His Statement  
4 of Claim fails to mention a single defendant by name, leaving the Court with no way of knowing which  
5 defendant was personally responsible for which act. Thrasher’s objections to the R & R repeat this  
6 error – in six pages of handwritten objections, Thrasher fails to cite a single defendant by name.

7 Because Thrasher has failed to explain how any individual defendant violated his constitutional  
8 rights, he has failed to state a claim upon which relief may be granted. Therefore, the Court ADOPTS  
9 the Magistrate Judge’s R & R and DISMISSES Thrasher’s complaint for failure to state a claim upon  
10 which relief may be granted.

11 Because Thrasher’s complaint is dismissed for failure to state a claim, it shall count as a  
12 “strike” under 28 U.S.C. § 1915(g).

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14 The Clerk is directed to send copies of this order to all counsel of record.

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Dated: July 16, 2007.

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s/ Marsha J. Pechman

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Marsha J. Pechman  
United States District Judge

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